
Testimony of Sarah Cooksey
Administrator, Delaware Coastal Management Programs
On Behalf of the Coastal States Organization
Before the Subcommittee on Oceans and Fisheries
Senate Commerce, Science and Transportation Committee
May 6, 1999

Introduction

I want to thank Chairman Snowe and the other members of the Subcommittee for the invitation to testify on the reauthorization of the Coastal Zone Management Act (CZMA). My name is Sarah Cooksey, and I am the Administrator of Delaware's Coastal Management Programs. I am testifying today in my role as Chair of the Coastal States Organization (CSO). Since 1970, CSO has represented the interests of the coastal states, including the Great Lakes and island Territories, as an advocate for sound and balanced coastal, Great Lakes and ocean resource management and development. CSO's membership consists of Delegates appointed by the Governors of the 35 States, Commonwealths, and Territories bordering the Atlantic and Pacific oceans, the Gulf of Mexico and Great Lakes. We greatly appreciate the early attention the Subcommittee is giving to the reauthorization of the CZMA, and urge Congress to complete action this year on this important legislation.

Summary

The Coastal Zone Management Act (CZMA) provides a flexible framework to develop collaborative, innovative community-based strategies to balance the challenges posed by growth and development with the need to preserve and restore critical habitat and other natural resource values. The CZMA is unique among federal statutes. It provides incentives to the states to identify their own coastal management priorities consistent with broad national objectives. In developing their coastal management programs, States determine the right mix of regulation, cooperation and education needed to address those priorities. Where states adopt enforceable policies, federal activities, licenses and permits must be consistent with those policies.

The population of coastal communities and coastal tourism continues to grow at a steady pace, placing ever increasing demands on coastal resources. The population densities of coastal counties are already five times the national average, and coastal areas are becoming more crowded every day. From 1996-2015, coastal population is projected to increase from 141 million to 161 million. Yet, funding for coastal programs under the CZMA not increased.

The CZMA should be amended to take advantage of its inherent strengths to provide increased support for state coastal programs under §§306 and 309, and provide support for direct assistance to coastal communities assess and manage the impacts of growth and conserve critical natural coastal resources.

Funding for community assistance under the CZMA has been very limited and, where it is available, it competes with coastal program administration, implementation and enhancement funds. This puts the states in the untenable position of choosing between preserving and improving its ongoing CZM program or providing assistance for communities to undertake specific priorities protection or restoration in critical areas. For example, while the Massachusetts CZM program provided support for the four towns abutting Pleasant Bay on Cape Cod, a state Area of Critical Environmental Concern (ACEC), to develop local consensus around a resources management plan, the state does not have sufficient funds to support plans in the remaining 13 ACEC's in the coastal area.

These amendments, which are discussed in more detail below, seek to redress this by providing direct assistance for communities, in addition to that provided by increases to base program administration and enhancement grants under Sections 306 and 309 of the CZMA, that will enable states to:

- (1) improve their ability to assist local decision-makers to understand the impacts and manage growth and development more efficiently, to identify a compatible mix of residential, commercial and open space uses, and to revitalize communities;
- (2) provide for increased protection, conservation and restoration of critical coastal resources;
- (3) access management-oriented research which provides new technology and tools that enhance the capacity of coastal decision-makers to assess, monitor and cumulative and secondary impacts.

CSO supports other technical changes and clarifications of the CZMA which will: (i) assure funding under the Coastal Zone Management Fund for regionally significant projects, international projects; emergency response to coastal hazards, and innovative demonstration projects; (ii) provide for the development, in consultation with the states, of outcome measures to assure effectiveness "on the ground"; and, (iii) increase support for the National Estuarine Research Reserve System (NERRS.) CSO supports the reauthorization recommendations of the National Estuarine Research Reserve Association which are included in the attached outline.

Background

Our nation's history, economy and culture are inextricably linked to and dependent upon the natural resources and economic development of the coasts. Our future is linked to their continued health. The story of our coast is, in many respects, the story of our nation which includes...the ports around which our nation's largest cities grew.... the fishing and beach communities along the coast of Maine and Cape Cod; the habitats of Galveston Bay....the indigenous cultures unique coastal needs of Alaska and the Pacific islands....the wetlands of coastal Louisiana....I am sure that each one of us can add to the list.

It has been estimated that economic activity in coastal areas currently supports 28.3 million jobs while generating incalculable indirect economic benefits. Significant sectors of our nation's economy,

including maritime trade, fisheries and mariculture, recreation and tourism, and oil and gas development depend directly on a healthy coastal ecosystem. Neither our picture post card memories nor our current economic prosperity will last for without careful “stewardship.” By stewardship, I mean the actions we take (or refrain from taking) to ensure that we are able to sustain both the coastal natural resources and the coastal economic opportunity for future generations.

States have recognized the importance of conservation of open space, discouraging sprawl development in rural areas, and protecting agricultural lands. The public also has indicated its strong support for these initiatives. *In 1998, 124 ballot initiatives were approved by voters calling for improved management of development and the conservation of open space.*

The Coastal Management Challenge

Activities last year in connection with the Year of the Ocean began to focus attention on the critical coastal and ocean resources challenges that we face. These challenges include: the pervasive and persistent effects of land-based sources of coastal pollution; the cumulative and secondary impacts of increased development in coastal areas on habitat and water quality; the potential for inefficient investment in public infrastructure resulting from urban sprawl; and the inefficient investment in environmental protection resulting from conflicting mandates and lack of adequate multi-objective planning.

As States and the federal government continue actively to support initiatives to enhance our nation's prosperity and economic development, we have a joint responsibility to address the increased demands that growth and development places on our coastal resources. That is particularly true along the coasts where thriving economies rely directly on healthy ecosystems. Healthy coasts support maritime activity, fisheries and other marine life, the aesthetic and natural resources values coastal tourism and recreation, the wise management of mineral and energy resources, and numerous other activities.

In both economic and human terms, our coastal challenges were dramatically demonstrated in 1998, by the numerous fish-kills associated with the outbreaks of harmful algal blooms, the expansion of the dead zone off the Gulf coast, and the extensive damage resulting from the record number of coastal hurricanes and el Nino events. Although there has been significant progress in protecting and restoring coastal resources since the CZMA and Clean Water Acts were passed in 1972, many shell fish beds remain closed, fish advisories continue to be issued, and swimming at bathing beaches across the country is too often restricted to protect the public health.

Last year, the H. John Heinz Center III Center with support from NOAA brought together a cross-section of leaders from all major sectors concerned with coasts and oceans to identify key issues affecting the nation's coastal and ocean future. In May 1998, they issued a Report entitled *"Our Ocean Future "* which, among other specific recommendations, concluded that:

To meet the challenge of protecting and conserving the coastal environment, the United States will need to manage the oceans and coasts in new ways. The economic and other consequences of coastal storms and erosion need to be reduced, and sustainable economic growth needs to be achieved in maritime recreation, marine resource development, global trade, and other activities. Progress in these areas increasingly lies beyond direct federal control. A rich experience base is emerging on partnership approaches that build on the roles and capabilities of the private sector; the knowledge base provided by scientific researchers; and the conservation and economic development tools of local, state and federal governments.

The CZMA

The CZMA is the only federal statute which sets forth a federal-state partnership to achieve the goal of maximizing sustainable economic and environmental objectives. The CZMA incorporated the essential principles of the "smart growth" and "sustainable development" movements over twenty years before the terminology came into vogue. Congress was prescient in 1972 when it passed the Coastal Zone Management Act (CZMA) to provide incentives:

to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development programs . . . (16 USC 1452(2))

With the enactment of the Coastal Zone Management Act in 1972 (CZMA), Congress improved the management of the coasts in two fundamental ways.

- First, it provided incentives that encouraged states to develop and implement plans, based on local priorities, to achieve a variety of national economic, environmental and societal objectives related to the coasts.
- Second, it provided states with the authority to ensure that federal activities, licenses and permits would be consistent with the enforceable policies of federally approved state coastal zone management programs.

It is not surprising that the principles of smart growth and recognition of the need to balance environmental and economic concerns was recognized first as essential to proper management of coastal resources because that is where the concentration of people and their demand for the use of natural resources was, and still is, the most acute.

Over the past six months, CSO has solicited the views of the states, NOAA, the National Estuarine Research Reserve Association and others about how the CZMA reauthorization can help to address these challenges. There are clear needs which have emerged from our discussions.

- There is a need to support coordinated decision-making across programs and at the federal-state-regional and local level.
- The focus of resource protection must expand from the resource specific mandates of the past to developing tools to accommodate multiple objectives and improve the quality of life.
- The focus of problem solving is increasingly shifting to locally-based solutions, which should be developed and applied within the context of broader ecosystem and regional systems.
- Few local governments have the capacity to address adequately the complex social, scientific, technical, fiscal and legal dimensions of the problems resulting from the growth of coastal communities.

34 of the 35 eligible state have either developed or are developing programs to protect and restore wetlands, increase public access to the shore, address the threats of coastal hazards, identify and manage the potential cumulative and secondary impacts of development, and revitalize waterfronts. In that time, states have measurably —

- Reduced the loss of wetlands and are beginning to reverse those losses through restoration;
- Assured that federal activities are consistent with state coastal management plans;
- Increased public access to coastal resources, and;
- Revitalized rundown waterfronts .

In Louisiana, where 25-35 miles of wetlands are lost each year, a 50 year plan for coastal restoration has just been completed. Other states have set out equally ambitious agendas for the future protection of coastal resources.

Other success stories are set out in two recent NOAA publications the “*Coastal Zone Management 25th Anniversary Accomplishments Report*” and the Biennial Report to Congress, “*Coastal Stewardship Towards a New Millennium: 1996-1997.*” These reports just scratch the surface of the activities in the states, and I hope each Member will have a chance to contact their states directly to find out not only what they have done so far to address coastal management challenges but, more importantly, what they need to accomplish in the future and how we can support these efforts through the reauthorization of the CZMA.

New Challenges - Community Revitalization and Conservation Planning

Despite the accomplishments, we have also learned some surprising lessons. In some cases we have discovered that the solutions of the past are part of the problem of present. For example, transportation investment can operate as an indirect subsidy for sprawl, creating demand for housing, school construction and other public infrastructure while destabilizing the urban tax base. Overly rigid environmental regulations can discourage downtown revitalization and encourage development in distant underdeveloped areas.

In 1997 the National Research Council issued a study entitled: “*Striking the Balance: Improving Stewardship of Marine Areas*” that concluded, in part, that:

The governance and management of our coastal waters are inefficient and wasteful of both natural and economic resources. The primary problem with the existing system is the confusing array of laws, regulations, and practices at the federal state and local levels. The various agencies that implement and enforce existing systems operate with the mandates that often conflict with each other. In many cases, federal policies and actions are controlled from Washington with little understanding of local conditions and needs.

The multi-purpose objectives of CZMA and its recognition of the need to coordinate activities among various agencies and levels of government make it an excellent vehicle for addressing these conflicts. Zoning intended to protect residents from offensive development can lead to the segregation of activities in general. We live in one place, work in another, shop in another. The result — we drive to work, our children are driven to school, drive to the mall, and (for those whom shopping at the mall is not sufficiently recreational) drive to the park. State, local and community officials and planners will tell you that the resulting sprawl costs money and lots of it. Sprawl is coming to be understood as economically inefficient land use. In addition to the much greater infrastructure costal, traffic congestion associated with sprawl results in substantial economic losses in terms of time and energy consumption. Most frustratingly, planners have found that sprawl is self-sustaining in that it inevitably leads to demands for transportation by-passes which open up new areas for similar development and result in the economic stagnation and decline of areas only recently developed.

Few local governments have the capacity to plan adequately to accommodate the inevitable future growth of communities while preserving the quality of life and ecosystem vitality. For example, while technological advances, such as the development of computer generated geographic information systems (GIS), have greatly expanded the ability to assess the impacts of infrastructure placement in relation to existing development, future growth patterns and natural resources, local community officials and planners do not have the resources to get past the entry-level threshold of acquiring the equipment, expertise and data to make use of these technologies. It is important to recognize that advances like GIS are simply tools and that their effectiveness in improving decision-making will depend assuring that the data is scientifically valid, current, accessible and usable by constituents at the state and local level.

CZMA provides a ready-made framework for addressing these issues. The focus of coastal management has begun to change in response to the realization that a process and project oriented approach to coastal management is not going to keep up with the demands being placed on coastal communities and resources. It is becoming increasingly clear that coastal communities need help to improve their ability to plan and manage growth and development efficiently, and assure conservation of remaining critical open space in crowded coastal areas.

It is time for a major commitment through the CZMA to support state efforts to provide new and improved planning and management tools to assist local communities to understand better and

address the complex economic and ecological dynamics of coastal systems and communities. This can be done both through improving the responsiveness of NOAA research to state and local management needs and providing assistance directly to states to work with local communities.

While all of our natural resources are valuable, some are more important than others in their relation to an ecosystem, and some are critically essential to the long-term viability of an ecosystem. For example, small tidal creeks have been identified as one of these essential areas. In their natural condition, these areas are among the most productive biologically, but because of their interface with the land and shallowness, they are also the more easily stressed. Advances in management-oriented science and technology are not only allowing us to identify these critical areas, but can assist us to establish impact thresholds, such as tolerance and impact levels for specific percentages of paved or other impervious surface area. This kind of information allows us to both protect resources and accommodate growth through improved design and location.

Administration's CZMA Reauthorization Proposals

While CSO's reauthorization proposals (which are explained in detail in the following section) agree in large part with the Administration's proposals, they do differ in a few significant ways.

First, both CSO and the Administration agree that Section 310 of the CZMA should be amended to authorize substantial new resources to support community revitalization and conservation assistance grants. However, while CSO proposes the allocation of grant funds to all states under the CZMA formula for providing direct assistance which can be tailored to meet community needs; the Administration's proposal creates a competitive federal grant program using CZM programs as intermediaries. CSO believes that decisions are best made at the state and local levels and that all states should participate in the program without requiring new bureaucratic federal administration and oversight responsibilities.

The Administration's proposal also establishes a confusing relationship between the community assistance provisions of section 310 and the NOAA technical assistance provisions of the proposed section 310A. For example, the amendment to section 310 provides that the secretary shall allocate a "substantial portion" of funds to community assistance grants. Does this mean that funds directed from section 310 grants provide funding for NOAA technical assistance and programs under 310A? To what extent, if any, is funding authorized for section 310 for community grants under section 318 available for section 310A activities? CSO would like to assure that NOAA is more accountable for utilizing its significant science, research and technical capabilities to provide "management oriented research" that is relevant and accessible to the states.

Secondly, CSO strongly opposes the provisions proposed by the Administration to amend section 306(c)(2) to mandate that 10-20 percent of the 306/306A grants be retained by the Secretary to reduce the impacts of polluted runoff. This change would fundamentally alter the framework of the CZMA which is based on the principle that states should have the flexibility to set priorities among

the national objectives established under the CZMA. Rather than providing additional funds, the proposed set-aside would divert funds from the base CZM programs undermining a broad range of CZMA objectives including waterfront revitalization, wetlands protection, increased public access, and the reduction of coastal hazards. As proposed, the Administration's bill does not authorize any additional revenues for state administration and implementation of the broad purposes of the CZMA under section 306 and 306A. As a result of the mandate, all increased authorizations proposed would be available only to the Secretary to target polluted runoff and not to the states to address other state-based priorities such as wetlands protection, public access, coastal hazards and waterfront development.

While the states agree that polluted runoff is a significant concern in coastal areas, these decisions are best made at the state and local level, not based on top-down directives. Establishing specific funding set-asides undermines the federal state partnership that is the cornerstone of the CZMA. When the CZMA was amended in 1990 to add the requirements for the development of coastal nonpoint source pollution programs, funding was proposed to supplement, not compete with, CZM program funding. Additional funding for state CZM programs to administer coastal nonpoint should be incorporated into CZMA without a mandated set-aside or provided as a separate authorization, and be in addition to funding levels authorized for implementing 306, 306A and 309. CSO also opposes the Administration's proposal to have coastal nonpoint programs reviewed as part of the section 312 CZMA review process.

CSO's CZMA Reauthorization Proposals

The following draft legislative proposals are offered for consideration of the Committee in drafting the CZMA Reauthorization legislation. We look forward to working with the Committee, states and other interested constituents to reach a consensus on final amendments.

1. Better Enable States to Build Community Capacity for Coastal Management.

The CZMA should be amended to provide dedicated support to states for the development of local, community-based solutions to manage the impacts on coastal uses and resources caused by or which may result from, increased development or urban sprawl. These initiatives should be directed to revitalize previously developed coastal areas, discourage development in undeveloped, environmentally sensitive or other coastal areas of particular concern, and emphasize water dependent uses. Targeted support for these place-based, community and critical area initiatives is necessary to address problems in the most sensitive watersheds and coastal communities.

Draft Proposed Language:

Amend the CZM Findings to add the following:

There is a need to enhance cooperation and coordination among states and local communities and to increase their capacity to identify development, public infrastructure and open space needs and to develop and implement plans which provide for continued growth, resource protection and community revitalization.

Delete section 310 and insert the following new section:

Section 310 — Planning and Managing Community Growth and Resource Protection.

(a) The Secretary is authorized to enter into cooperative agreements with state coastal management programs to provide assistance to coastal communities to support the planning, development and implementation of local, community-based initiatives which will increase their capacity to identify development, public infrastructure and open space needs and which provide for resource protection and restoration while addressing the need for community revitalization and continued growth consistent with the purposes of this Act.

(b) In developing and implementing the program, states shall provide such assistance as needed to improve community capacity to:

(1) identify and provide for better planning and management of critical coastal habitat, land use and growth patterns;

(2) identify and plan for the impacts of the placement of new public facilities, housing, and commercial and industrial development and for efficient investment in transportation and other public infrastructure; revitalize and restore coastal waterfronts communities and water dependent uses; and preserve open space areas for recreation, habitat and scenic views; and

(3) enhance public awareness of and participation in planning and managing growth and conservation in coastal communities consistent with the purposes of this Act.

(c) States shall demonstrate that projects have the support and participation of affected local governments, and maximize environmental benefits to the extent practicable while supporting coastal dependent growth and development consistent with the purposes of the Act. Funding shall be distributed to the states pursuant to the formula established under Section 306(c) (16 USC 1455(c)).

2. Direct NOAA to Provide Management-Oriented Research and Technical Assistance.

Current provisions calling for “management-oriented” research and technical assistance from NOAA to the states should be strengthened to provide greater accountability and closer coordination with the states, including a request for a report and recommendations to Congress regarding the effectiveness of NOAA in providing such research and assistance.

Draft Proposed Language:

Delete provisions of section 310; insert a new section 310A as revised:

Section 310A—Management-Oriented Research and Technical Assistance

(a) The Secretary, in consultation and cooperation with the states and National Estuarine Research Reserves, shall undertake a program for management-oriented research and technical assistance necessary to support the implementation of coastal management objectives, identification and development of innovative technology and technology transfer which addresses coastal management issues, and such technical assistance and training as may be needed to increase the capacity of state and local communities as provided in Section 310. In implementing this section, the Secretary shall provide for coordination of support for the services and activities under this section with all other activities that are conducted by or subject to the authority of the Secretary.

(b) The Secretary shall identify services and activities undertaken by other departments, agencies or other instrumentalities of the Federal Government which support the purposes of this section, and enter into memoranda of agreement or other arrangements as appropriate which provide for coordination and mutual support.

(c) In carrying out programs under this section, the Secretary may enter into contracts or other arrangements with qualified persons but shall, to the maximum extent practicable, coordinate with and utilize state coastal management programs and estuarine research reserves for the purposes of carrying out this section.

(d) By January 2001, the Secretary shall provide a report to the Senate Commerce Committee and House Resources Committee evaluating the Agency’s effectiveness in providing management-oriented research and technical assistance; identifying the applicable services and activities and steps that have been undertaken to provide for coordination and mutual support of coastal programs, and making specific recommendations on changes that should be made to improve the delivery of such services. In preparing the report, the Secretary shall include participation from representatives of the Governors of the coastal states and National Estuarine Research Reserves.

3. Increase Support for the Administration and Enhancement of CZM Programs and the Protection and Restoration of Coastal Resources.

Despite clear national benefits, federal support for state Coastal Zone Management programs has not kept pace with growing challenges. Funding for state coastal programs in real terms has declined due to inflation and the addition of states participating in coastal programs. Federal support for state and local communities efforts to plan for and manage our nation's coasts is diminishing despite increasing demands. This is particularly true in larger states where state grants have been capped at \$2 million a year for the past eight years, despite substantial increases in population in the coastal areas and an increased recognition of the importance of improving management of polluted runoff, habitat protection and restoration, and community growth patterns.

Adequate funding should be provided under Section 306/309 state grants to assure states' abilities to address polluted runoff consistent with their coastal program management responsibilities, including interagency and state-local coordination of initiatives to address the causes and impacts of nonpoint pollution, particularly as they relate to land use and linking state water quality with other coastal resource protection objectives. The states recommend increasing appropriations levels for base 306/309 programs for administration and enhancements to \$75 million, in order to address this shortfall and provide for equitable distribution among all coastal states and territories.

In addition, existing authorities under Section 306A of the CZMA (16 USC 1455A) provide adequate authority to preserve or restore specific areas of the state with particular conservation, recreation, ecological or aesthetic value, as well as to provide public access and address revitalization of waterfronts of particular concern. However, funding for these targeted place-based activities to protect and restore "priority areas" competes with base program administration and enhancement funds and is limited to 10 percent of overall appropriations. This puts the states in the untenable position of choosing between preserving and improving its CZM program or providing support for addressing its most significant problems. These limitations should be removed and specific funding authorized for 306A to enable states to address preservation and restoration of these "priority" areas. CSO has proposed a modest annual funding level of \$12 million to be targeted to 306A activities. For example, along the Louisiana coastline, the San Francisco Bay Delta in California, and Florida Everglades, coastal management agencies are participants in large-scale, multi-year wetland restoration efforts involving coordinated efforts of numerous agencies.

These changes will enable state coastal programs to target preservation and restoration in areas of the state where they are most needed. It will also help support integration of state activities with federal, state and local initiatives including, but not limited to, efforts under State Unified Watershed Assessments to address polluted runoff and restore the most degraded areas, as well as activities to address the protection and restoration of fish habitat and coral reefs .

Draft Proposed Language:

§ 1464. Authorization of appropriations (Section 318)

(a) Sums appropriated to Secretary. There are authorized to be appropriated to the Secretary, to remain available until expended--

(1) ~~for grants under sections 306 and 309 of the Act (16 U.S.C. §§ 1455, 1455a and 1456b), for grants under sections 306, 306A, and 309 [16 USC §§ 1455, 1455a, 1456b]--~~

(A) \$ 75,000,000 for fiscal year 2000;

(B) \$ 78,000,000 for fiscal year 2001; and

(C) \$ 82,000,000 for fiscal year 2002; and

(D) \$ 85,000,000 for fiscal year 2003; and

(E) \$ 90,000,000 for fiscal year 2004; and

(2) for implementation of the purposes in section 306A of the Act as amended, \$12,000,000 for fiscal year 2000; and such sums in excess of \$12,000,000 as are necessary for fiscal years 2000-2004.

(3) ~~for grants under section 315 of the Act (16 U.S.C. § 1461);, for grants under section 315 [16 USC § 1461]--~~

(A) \$ 12,000,000 for fiscal year 2000;

(B) \$ 14,000,000 for fiscal year 2001; and

(C) \$ 16,000,000 for fiscal year 20002; and

(D) \$ 18,000,000 for fiscal year 20003; and

(E) \$20,000,000 for fiscal year 2004.

(4) for implementation of the purposes in section 310 of the Act as amended, \$30,000,000 for fiscal year 2000; and such sums in excess of \$30,000,000 as are necessary for fiscal years 2001-2004. These amounts are in addition to those authorized in subsection (3); and

(5) for costs associated with administering this title, \$5,500,000 for fiscal year 2000; and such sums as are necessary for fiscal years 2001-2004.

(b) Limitations. Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 306 ~~or 309~~ [16 USC § 1455 ~~or 1456b~~].

(c) Reversion of grants to Secretary. The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State within three years from when ~~during the fiscal year, or during the second fiscal year after the fiscal year, for which~~ it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants ~~under the section for such reverted amount was originally made available to States under this Act.~~

(d) Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

4. Other Changes:

A. Clarify The Policy To Support Coastal-Dependent Development

Changes to the CZMA Congressional Policy should be made to clarify that the primary objective of the CZMA and state coastal management programs is to support “coastal-dependent” development compatible with resource protection priorities, not to support any new commercial developments adjacent to existing development. The objective of steering development into existing developed areas regardless of whether it is compatible with surrounding uses or state policy, has been relied on as a “national benefit” in a successful challenge to a state consistency objection.

Draft Proposed Language:

Amend Section 303(2)(D) (16 USC 1452(2) (D)) as follows:

(D) and the location *to* the maximum extent practicable of new, coastal-dependent commercial or industrial developments in or adjacent to areas where such development already exists.

B. Utilization of Non-Profits to Implement 306A projects.

In some cases states have identified local non-for-profit groups as the best suited to undertake projects or activities eligible under the Coastal Resource Improvement Program under Section 306A. However, NOAA has imposed unnecessary restrictions on states. Therefore, CSO proposes that Section 306A(e) be amended to make it clear that funds can be allocated to “*not-for-profit organizations.*” However, such grants should be available only to undertake the objectives of section 306A and not directly to benefit such groups.

C. Coastal Zone Management Fund (CZMF)

For the past several years payments into the CZMF from loan repayments under the old Coastal Energy Impact Program have been earmarked to cover OCRM Administrative costs and diverted to offset funding for the National Estuarine Research Reserves. As a result no funds have been provided for other eligible purposes including international, regionally significant and interstate projects, and emergency grants to address disaster related circumstances. It is projected that there will be appropriated \$4-\$3.8 million annually as a result of loan repayments into the CZMF. Section 308 should be amended to eliminate funding for OCRM Administration which should be funded through a direct appropriations from NOAA operations accounts. (See 14 USC 1464(a) (5) above.) CZMF funds should be made available to the states to support other eligible projects. Without these funds there is no way to support innovative regional or interstate projects, or to respond to emergencies resulting from coastal disasters which result in increased demands on state coastal programs.

Draft Proposed Language:

Deletions are ~~stricken~~ and new language in *italics*

§ 1456a. Coastal Zone Management Fund (Section 308)

(a) (1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990 [enacted Nov. 5, 1990], and any repayment schedule established pursuant to this title as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary; ~~as offsetting collections, and~~ shall be deposited into the Coastal Zone Management Fund established under subsection

(b) (1) The Secretary shall establish and maintain a fund, to be known as the "Coastal Zone Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 307(i)(3) [16 USC § 1456(i)(3)].

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use *by the states* for the following;

~~(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of--~~

~~(i) \$ 4,000,000; or~~

~~(ii) 8 percent of the total amount appropriated under this title for the fiscal year.~~

~~(B) After use under subparagraph (A)--~~

~~A~~ ~~(i)~~ projects to address management issues which are regional in scope, including interstate projects;

~~B~~ ~~(ii)~~ demonstration projects which have high potential for improving coastal zone management, especially at the local level;

~~C~~ ~~(iii)~~ Emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

~~(iv)~~ Appropriate awards recognizing excellence in coastal zone management as provided in section 314 [16 USC § 1460];

~~D~~ ~~(v)~~ program development grants as authorized by section 305 [16 USC § 1454], in an amount not to exceed \$ 200,000 for each of fiscal years 1997, 1998, and 1999; and

~~E~~ ~~(vi)~~ to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306 [16 USC § 1455].

(3) On December 1, of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

C. Outcome Indicators

The success of the Coastal Zone Management Act can and should be assessed with measurable outcomes. The establishment of outcome indicators for the program should be developed in consultation with and participation of State representatives, and should be flexible enough to address the variations among state programs.

Draft Proposed Language:

Sec. __ (a) Not later than 24 months after the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Resources of the U. S. House of Representatives that contains recommendations for a common set of measurable outcome indicators that would provide a mechanism to evaluate the effectiveness of State coastal zone management programs and activities in achieving one or more of the objectives set out in Section 303(2)(A)-(J) of the Coastal Zone Management Act of 1972. In preparing the report, the Secretary shall include participation of representatives of the Governors of the coastal states. Prior to submitting the report the Governors shall be provided an opportunity to comment on the report and their comments shall be included in the final report.

(b) Not later than 48 months after the enactment of this Act, the Secretary of Commerce shall submit to the House Resources Committee recommendations for such legislation, regulation or guidance necessary to implement a national coastal zone

management outcome monitoring and performance evaluation system.